



House of Representatives

File No. 861

General Assembly

January Session, 2001

(Reprint of File No. 177)

Substitute House Bill No. 6176
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 2, 2001

AN ACT CONCERNING WATER COMPANY CHOICE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (a) Not later than July 1, 2001, the Department of Public
2 Utility Control shall conduct a contested case proceeding, pursuant to
3 chapter 54 of the general statutes, to determine a fair purchase price for
4 any assets of the Eastern Connecticut Regional Water Company,
5 Incorporated, used to provide water service to and located in the
6 towns of Durham and Middlefield. The department shall calculate a
7 separate fair purchase price for those portions of said company in each
8 of said municipalities. The purchase price shall be calculated as the
9 sum of the following: (1) The current net book value of the assets to be
10 sold multiplied by the purchase price paid by the owner of the
11 company, as approved by the Department of Public Utility Control in
12 Docket No. 98-12-20, divided by the net book value of Eastern
13 Connecticut Regional Water Company, Incorporated, as of June 2,
14 1999; and (2) a rate of return equal to the sum of the average prime
15 lending rate multiplied by the portion of the purchase price premium
16 associated with the assets to be sold. For purposes of this section, (A)

17 current net book value includes planning and engineering costs
18 associated with an expansion of water service in said municipality,
19 which costs would have been eligible for inclusion in the rates of said
20 company on or after the date of any sale pursuant to this section; and
21 (B) the portion of the purchase price premium associated with any
22 asset which shall be sold pursuant to this section shall be calculated by
23 taking the net book value of the assets to be sold, as of June 2, 1999,
24 divided by the net book value for the entire company as of June 2,
25 1999, multiplied by the purchase price premium recorded on the books
26 of Eastern Connecticut Regional Water Company, Incorporated,
27 pursuant to Docket No. 98-12-20.

28 (b) Not later than ninety days from the date of determination of the
29 department pursuant to subsection (a) of this section, each such
30 municipality shall inform the department of whether such
31 municipality intends to purchase the system at the fair purchase price
32 determined by the department pursuant to subsection (a) of this
33 section. The department shall inform the company of the
34 municipality's intent to purchase the system and such company shall
35 file with the department an application, pursuant to section 16-43 of
36 the general statutes, to sell such portion to the municipality at the fair
37 purchase price determined by the department pursuant to subsection
38 (a) of this section. If such municipality elects not to purchase that
39 portion of the company providing service in such municipality, any
40 contiguous municipality may, not later than thirty days from the date
41 of the refusal of the municipality in which such company provides
42 service, inform the department of its intent to purchase the portion of
43 said company. The department shall inform the company of the
44 contiguous municipality's intent to purchase the system and such
45 company shall file with the department an application, pursuant to
46 section 16-43 of the general statutes, to sell such portion to the
47 contiguous municipality at the fair purchase price determined by the
48 department pursuant to subsection (a) of this section. Any application
49 filed pursuant to this subsection shall be deemed to be in the public
50 interest and the provisions of section 16-22 of the general statutes shall

51 not apply to any application filed by a water company pursuant to this
52 subsection. Notwithstanding section 7-234 of the general statutes, any
53 sale resulting from the approval of an application filed pursuant to this
54 subsection shall be deemed to comply with section 7-234 of the general
55 statutes and the respective franchise jurisdictions are hereby amended
56 in accordance with section 7-234 of the general statutes.

57 Sec. 2. This act shall take effect from its passage.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Public Utility Control

Municipal Impact: None

Explanation**State Impact:**

The bill as amended requires the Department of Public Utility Control (DPUC) to conduct a contested case proceeding to determine the fair purchase price for any assets of the Eastern Connecticut Regional Water Company, Inc. and calculate a separate fair purchase price for the portions of the company in Durham and Middlefield. This will result in a workload increase to the DPUC, which can be handled within the normal budgetary resources of the agency.

Municipal Impact:

The bill as amended permits certain municipalities to purchase the Eastern Connecticut Regional Water Company, Inc. at the fair purchase price determined by the DPUC. It is anticipated that these municipalities will select to purchase such system, only to the extent there are available budgetary resources. If these municipalities select not to purchase such portion of the water company providing service in such municipality, any contiguous municipality may apply to purchase the company. It is anticipated that any eligible municipality that selects to purchase a portion of the water system, will only do so

to the extent there are available budgetary resources.

House "A" becomes the bill, the associated fiscal impact is discussed above.

OLR Amended Bill Analysis

sHB 6176 (as amended by House "A")*

AN ACT CONCERNING WATER COMPANY CHOICE.**SUMMARY:**

This bill requires the Department of Public Utility Control (DPUC) to conduct a proceeding by July 1, 2001 to determine a fair purchase price for the assets of the Eastern Connecticut Regional Water Company that are located in and serve Durham and Middlefield. The bill prescribes how DPUC is to make this calculation. It allows each town, within 90 days of the DPUC determination, to notify DPUC if it wants to buy the assets at this price and specifies the purchase procedure.

*House Amendment "A" (1) replaces the original bill, which allowed a municipality that meets certain criteria to choose which water utility will serve its residents and (2) makes the bill effective upon passage rather than on October 1, 2001.

EFFECTIVE DATE: Upon passage.

DPUC PROCEEDING

DPUC must conduct the proceeding as a contested case. This is a quasi-judicial proceeding in which the Office of Consumer Counsel is entitled to participate.

DPUC must calculate separate purchase prices for the company's assets located in Durham and Middlefield. The price must be calculated as the sum of two parts. The first part is the asset's current net book value times the price the company paid for the company, divided by the company's net book value when DPUC approved the acquisition on June 2, 1999. Under the bill, the current net book value includes planning and engineering costs associated with expansion in the town that would otherwise be recoverable from ratepayers after the sale.

The second part of the calculation is the purchase price premium

associated with the assets to be sold times the average prime lending rate. The former figure is calculated by multiplying the ratio of the sale asset's book value to the book value of all company assets times the amount the company paid above net book value for all of the purchased assets.

PURCHASING PROCEDURE

Within 90 days of the determination, each town must notify DPUC whether it wants to buy the company's assets in the town at the DPUC-set value. If a town wants to make the purchase, DPUC must inform the company, which must initiate the statutory process for selling the assets.

If the town chooses not to buy the assets, any neighboring town can do so. The neighboring town has 30 days from the time that either Durham or Middlefield tells DPUC that it has decided not to buy the assets to inform DPUC of its intent. If a neighboring town decides to buy the assets, DPUC and the company must follow the procedure described above.

The bill exempts these purchases from the law that requires utilities to demonstrate to DPUC that a transfer of assets is in the public interest. It also automatically adjusts the franchises of the company and the town to reflect the transfer, and it specifies that the transfer must meet the requirements of the law that governs municipal acquisitions of water supply systems.

BACKGROUND

Legislative History

On April 17, the House referred the original bill (File 177) to the Public Health Committee, which reported it without changes on April 19.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 13 Nay 0

Public Health Committee

Joint Favorable

Yea 21 Nay 3